

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3951 of 1985

Date of decision: 28-7-97

For Approval and Signature

The Hon'ble Mr. Justice S. K. KESHOTE

1. Whether Reporters of Local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the judgment?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

B. NARAYANA RAO

Versus

OIL & NATURAL GAS COMMISSION

Appearance:

MR PC MASTER for Petitioner
Ajay R. Mehta for respondents.

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 28/07/97

ORAL JUDGEMENT

Heard the learned counsel for the parties.

The petitioner, an employee of the Oil and Natural Gas Corporation has filed this special civil application praying that the respondents may be restrained from retiring him from service earlier to 31st July, 1987 and they may be directed to continue the petitioner in service till 31st July, 1987.

2. The petitioner was appointed in the service of respondent No.1 on 19th December, 1961. On the basis of the date of birth as shown in his secondary school leaving certificate date of birth has been entered in his service record as 25th July, 1927. In the year 1976 the petitioner has noticed the clerical error in the birth date recorded in his secondary school leaving certificate. Therefore, under letter dated 11-6-1976 the petitioner informed the respondents that he had taken up the matter with the High School Authorities and the S.S.L.C. Board of Karnataka State. He further informed that on receipt of correct certificate he will produce the same before the respondents for making necessary correction of his date of birth in his service record.

3. It appears that the S.S.L.C. Board authorities of Karnataka State, on representation of the petitioner, has not corrected his date of birth recorded in the Secondary School Leaving Certificate. He therefore filed Original Suit No.183/78 in the Court of Munsiff at Bantwal, Dakshin Kannada District in Karnataka State. That civil suit came to be decreed and it has been declared that the correct date of birth of the petitioner was 25th July, 1929. The State of Karnataka has taken up the matter in first appeal and then in second appeal in the High Court and the State has lost in both the appeals. After decision in the suit in the Munsiff Court, the petitioner made representation to the respondents to make correction in his date of birth, which was not done. However, meanwhile action has been taken to retire the petitioner with effect from 31st July, 1985. Hence he filed this special civil application before this Court.

4. This special civil application was admitted by this court on 28th July, 1985 and interim relief has been granted in terms of para 14 of the Special Civil Application on condition that in case ultimately the petitioner fails in this special civil application, and if the court directs, the petitioner will refund the

money received by him.

5. So the petitioner has completed his service on 31st July, 1987 and has enjoyed his work till he attained the age of superannuation as per his date of birth as 25th July, 1929. Learned counsel for the respondents fairly admits that the civil suit filed by the petitioner in Munsiff Court at Bantwal was decreed in favour of the petitioner and the decree was confirmed by the first appellate court and finally in second appeal by the High Court of Karnataka. In the service record the date of birth of the petitioner has been recorded by the respondent on the basis of the date which has been shown in his S.S.L.C. and when that date has been declared to be wrong, then naturally necessary correction ought to have been made by the respondents in the service record of the petitioner. The petitioner has noticed this error in his service record in the year 1976, that is, before he reached the age of superannuation as per the date of birth recorded in his service record. He has taken all the steps and ultimately the civil court has accepted his version. In view of the declaration given by the Civil Court that the date of birth of the petitioner is 25th July, 1929 the date of birth which has been recorded in his service record by the respondents cannot be allowed to remain.

6. In the result this special civil application succeeds and the same is allowed. It is hereby declared that the petitioner was entitled to continue in service till 31st July, 1987. The petitioner shall be entitled to all the consequential benefits flowing therefrom. Rule made absolute in the aforesaid terms. No order as to costs.

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